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Standard Brands Paint Company and United Food & Commercial Workers Union, Local 101, 135, 324, 770, 870, 1036, 1167, 1288, 1428, and 1442

Major Paint Company and United Food & Commercial Workers Union, Local 101, 135, 770, 870, 1036, 1167, 1288, 1428, and 1442. Cases 31-CA-21895, 31-CA-21896, 31-CA-21914, 31-CA-21992, and 31-CA-21993

June 26, 1997

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS FOX AND HIGGINS

On January 17, 1997, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, ordering the Respondent, Standard Brands Paint Company and Major Paint Company, a single employer, to make unit employees whole, with interest, for any loss of earnings and other benefits resulting from their unlawful layoffs and the Respondent's unlawful failure to grant employees contractually mandated vacation leave with pay, and to make the unit employees whole, with interest, by reimbursing them for any expenses ensuing from the Respondent's unlawful unilateral implementation of a change in the health care provider for its unit employees.

A controversy having arisen over the amounts due, on April 29, 1997, the Regional Director for Region 31 issued a compliance specification and notice of hearing alleging the amounts due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated May 21, 1997, the General Counsel advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by May 27, 1997, summary judgment would be sought. The Respondent filed no answer.

¹ 322 NLRB No. 156.

On June 2, 1997, the General Counsel filed with the Board a motion to transfer case to the Board and for Summary Judgment, with exhibits attached. On June 3, 1997, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net amounts due the unit employees are as stated in the compliance specification and we will order payment by the Respondent of those amounts to the unit employees, plus interest accrued on those amounts to the date of payment.²

ORDER

The National Labor Relations Board orders that the Respondent, Standard Brands Paint Company and Major Paint Company, a single employer, Torrance, California, its officers, agents, successors, and assigns, shall make whole the individuals named in the compli-

² The specification reserves for future determination any amounts owed by the Respondent for any expenses incurred because of the Respondent's unilateral implementation of a change in the health care provider for the unit employees.

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ance specification, by paying them the amounts specified therein, with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required

by Federal and state laws. The total amount set forth in the specification is: \$217,776.31.

Dated, Washington, D.C. June 26, 1997

William B. Gould IV, Chairman

Sarah M. Fox, Member

John E. Higgins, Jr., Member

(SEAL) NATIONAL LABOR RELATIONS BOARD